



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,839	05/16/2001	Michael J. Brunelle	782.1104	9188

21171 7590 04/23/2004

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER

GAUTHIER, GERALD

ART UNIT	PAPER NUMBER
----------	--------------

2645

DATE MAILED: 04/23/2004

15

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,839

Applicant(s)

BRUNELLE ET AL.

Examiner

Gerald Gauthier

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 17, 2003 has been entered.

Allowable Subject Matter

2. **Claims 4 and 9** would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 1-21** are rejected under 35 U.S.C. 102(e) as being anticipated by Kung et al. (US 6,633,635).

Regarding **claims 1 and 21**, Kung discloses a multiple call waiting in a packetized communication system (column 1, lines 10-15), (which reads on claimed “a method of managing calls through an entertainment system”), comprising:

notifying by an entertainment stem call manager, via a data network, a call management server residing in a telephony provider network to monitor calls on the telephony provider network for the entertainment system (column 10, lines 18-33) [The call manager on the provider network maintains the call states for each call it handles];

holding in the telephony-network-resident call management server a call on the telephony provider network for the entertainment system prior to routing the call to the entertainment system in response to the notifying (column 30, lines 43-59) [The call manager receives and validates the number of the called party before routing];

receiving in the entertainment system call manager a held call signal indicating a held call, during a program play by the entertainment system to a user, via the data network from the telephony-network-resident call management server (column 31, lines 1-25) [The BRG alerts the subscriber's premises while watching television by generating a visual indication];

presenting by the call manager selectable call handling options in response to the held call signal through the entertainment system during the program play (column 31, lines 26-40) [The BRG presents options to the subscriber to allow the incoming call or ignore it and be placed in queue]; and

handling the held call according to a call handling option selected by the user through the entertainment system and provided via the data network to the telephony-network-resident call management server (column 31, lines 41-54) [The subscriber opts for the incoming to be in queue and the calling party is informed that the subscriber is busy].

Regarding **claim 2**, Kung discloses buffering the program being played through the entertainment system when the held call signal is received (column 31, lines 1-25).

Regarding **claim 3**, Kung discloses buffering the program being played through the entertainment system in response to a specific user request (column 31, lines 1-25).

Regarding **claim 5**, Kung discloses a multiple call waiting in a packetized communication system (column 1, lines 10-15), (which reads on claimed "a call management system") comprising:

a call management server residing in a telephony provider network and in communication with a subscriber entertainment system via Internet and/or cable data networks, and holding a call on the telephony provider network for the subscriber entertainment system prior to routing the call to the subscriber entertainment system (column 10, lines 18-33) [The call manager on the provider network maintains the call states for each call it handles and hold the call in queue for the subscriber]; and

a television call manager connected to the subscriber entertainment system to receive a held call signal from the call management server via the data network indicating held call during a program play by the subscriber entertainment system (column 31, lines 1-25) [The BRG alerts the subscriber's premises while watching television by generating a visual indication].

Regarding **claims 6 and 16**, Kung discloses a television buffering device connected to the subscriber entertainment system to buffer and record the television program played through the subscriber entertainment system in response to the held call signal transmitted from the television call manager when the call is held at the telephony-network-resident call management server (column 21, lines 11-20).

Regarding **claim 7**, Kung discloses wherein the held call at the telephony-network-resident call management server is handled according to a selected call handling option received by the telephony-network-resident call management server, via the data network from the television call manager of the subscriber entertainment system (column 31, lines 41-54).

Regarding **claim 8**, Kung discloses wherein the-call handling options for the selection are displayed through the subscriber entertainment system (column 31, lines 26-41).

Regarding **claim 10**, Kung discloses a remote control device in communication with the television call manager, wherein the subscriber selects the call handling option with the remote control device (column 31, lines 41-54).

Regarding **claim 11**, Kung discloses wherein the subscriber entertainment system comprises the television (column 31, lines 1-25).

Regarding **claim 12**, Kung discloses a television detector in communication with the television to detect when the television is on and to signal the telephony-network-resident call manager management server, via the data network, to route calls on the telephony provider network through the telephony-network-resident call management server (column 31, lines 1-25).

Regarding **claim 13**, Kung discloses wherein a caller identification corresponding to the held call at the telephony-network resident call management server is provided via the data network, to the television call manager of the subscriber entertainment system and displayed through the subscriber entertainment system (column 31, lines 41-54).

Regarding **claim 14**, Kung discloses wherein if the selected call handling option is to take the call, the telephony-network-resident call management server forwards the call via the telephony network to the television call manager of the subscriber entertainment system (column 32, lines 18-26).

Regarding **claim 15**, Kung discloses wherein the held call at the telephony-network-resident call management server is answered via the telephony network through the subscriber entertainment (column 32, lines 27-48).

Regarding **claim 17**, Kung discloses wherein the held call at the telephony-network-resident call management server is a text message (column 31, lines 1-25).

Regarding **claim 18**, Kung discloses wherein the text message is displayed through the entertainment system (column 31, lines 1-25).

Regarding **claims 19 and 20**, Kung discloses a multiple call waiting in a packetized communication system (column 1, lines 10-15), (which reads on claimed "a method of managing calls through an entertainment system"), comprising:

notifying by an entertainment system call manager, via a data network, a call management server residing in a telephony provider network to monitor calls on the telephony network for the entertainment system (column 10, lines 18-33) [The call manager on the provider network maintains the call states for each call it handles];

holding in the telephony-network-resident call management server a call on the telephony network for the entertainment system prior to routing the call to the entertainment system in response to the notifying (column 30, lines 43-59) [The call manager receives and validates the number of the called party before routing];

receiving in the entertainment system call manager a held call signal indicating a held call during a program play by the entertainment system to a user, via the data network from the telephony-network-resident call management server (column 31, lines 1-25) [The BRG alerts the subscriber's premises while watching television by generating a visual indication];

automatically pausing and recording a television program played through the entertainment system when the held call signal is received (column 21, lines 11-20) [The memory is configure to pause and buffer the television program]; and

resuming the television program when the held call at the telephony-network resident call management server is terminated (column 25, lines 28-48) [The broadband resumes the programming of the subscriber by downloading the subscriber request].

Response to Arguments

5. Applicant's arguments with respect to **claim 1-21** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Balk et al. is cited for an apparatus for providing a graphical control interface (FIG. 1).

Tidwell et al. is cited for a television system (FIG. 1).

Skerlos et al. is cited for a microcomputer-controlled television/telephone system and method therefore (FIG. 1).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (703) 305-0981. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (703) 305-4895. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gerald G. G.
g.g.

April 19, 2004

FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Fan Tsang